

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States District Court
Southern District of Texas
FILED

MAR 09 2012

ADVANCED DIAGNOSTICS
MANAGEMENT, L.L.P.,

Plaintiff,

v.

GE HEALTHCARE, INC.,

Defendant.

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Civil Action No. 4:12-cv-749

David J. Bradley, Clerk of Court

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. Section 1446(a), Defendant GE Healthcare, Inc.¹ (“General Electric”), files this Notice of Removal, hereby removing this case from the 165th Judicial District Court of Harris County, Texas, to the United States District Court for the Southern District of Texas, Houston Division. In support of its Notice of Removal, General Electric respectfully shows the Court as follows:

A. State Court Action

1. This action was originally filed by Plaintiff Advanced Diagnostics Management, L.L.P. (“Advanced Diagnostics”) on February 8, 2012, in the 165th Judicial District Court of Harris County, Texas, and assigned Cause Number 2012-07911 by that court. Advanced Diagnostics’ state court petition alleges causes of action for breach of contract, promissory estoppel, and common law fraud, while demanding a jury trial.

2. General Electric was served with Advanced Diagnostics’ state court petition on February 14, 2012. General Electric has not filed a state court answer.

B. Diversity Jurisdiction

¹ General Electric is investigating whether GE Healthcare, Inc. is the proper defendant to this lawsuit. The proper defendant may be General Electric Company, by and through its GE Healthcare division.

3. This action is removable pursuant to 28 U.S.C. Section 1332 of the United States Code. Pursuant to Section 1332, federal district courts have original jurisdiction over civil actions where the matter in controversy exceeds \$75,000 and where the action is between citizens of different States. 28 U.S.C. § 1332(a)(1).

4. There is a complete diversity of citizenship between the parties to this lawsuit. Specifically, Plaintiff Advanced Diagnostics is, based on the allegations in its Original Petition, a citizen of Texas. Defendant General Electric is a Delaware corporation with its principal place of business in Delaware.²

5. Additionally, based on the allegations in the Original Petition, the amount in controversy exceeds \$75,000 (exclusive of interest and costs). For example, Advanced Diagnostics' alleged damages include lost profits and the costs associated with repairing and replacing an ultrasound unit, which sums are believed to exceed \$75,000.

C. Timeliness of Removal

6. This removal is timely. General Electric was served with and received notice of Advanced Diagnostics' state court petition on February 14, 2012. This Notice of Removal was filed within 30 days thereof, and is timely under 28 U.S.C. Section 1446(b).

D. Propriety of Removal to this Court

7. The 165th Judicial District Court of Harris County, Texas is located within the Southern District of Texas, Houston Division. Consequently, pursuant to 9 U.S.C. Section 205 and 28 U.S.C. Section 1441(a), this action is properly removed to this Court.

E. State Court Documents Attached

² To the extent that the proper defendant is General Electric Company, by and through its GE Healthcare division, diversity jurisdiction would exist as General Electric Company is a New York corporation with its principal place of business in Connecticut.

8. In accordance with Local Rule 81, this Notice of Removal is accompanied by an Index of Matters Being Filed (Exhibit 1), which identifies the following additional attachments:

- a) The executed process to General Electric (Ex. 2);
- b) Advanced Diagnostics' Original Petition and Request for Disclosures (Ex. 3);
- c) The docket sheet (Ex. 4); and
- d) A list of counsel of record, including addresses, telephone numbers, and parties represented (Ex. 5).³

F. Notice to State Court and Plaintiff

9. Pursuant to 28 U.S.C. Section 1446(d), General Electric will, contemporaneously with the filing of this Notice of Removal in this Court, file a copy of this Notice of Removal with the 165th Judicial District Court of Harris County, Texas. General Electric will also provide Advanced Diagnostics with written notice of the filing of this Notice of Removal.

CONCLUSION & PRAYER

For those reasons set forth herein, Defendant General Electric Company prays that the United States District Court for the Southern District of Texas, Houston Division, accepts this Notice of Removal and assumes jurisdiction of this cause, and that it issues such further orders and processes as may be necessary to bring before it all parties necessary for the trial hereof.

³ Local Rule 81 also provides that all state court orders should be attached to a notice of removal; the state court has not issued any orders in this cause.

Dated: March 9, 2012

Respectfully submitted,

FULBRIGHT & JAWORSKI L.L.P.

OF COUNSEL:

Seth M. Isgur
State Bar No. 24054498
Federal I.D. No. 918729
FULBRIGHT & JAWORSKI L.L.P.
Fulbright Tower
1301 McKinney, Suite 5100
Houston, Texas 77010-3095
Telephone: (713) 651-5151
Telecopier: (713) 651-5246
sisgur@fulbright.com

/s/ Melanie B. Rother

Melanie B. Rother
State Bar No. 24041826
Federal I.D. No. 39164

Fulbright Tower
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Houston, TX 77010-3095
Telephone: (713) 651-5151
Facsimile: (713) 651-5246
mrother@fulbright.com

Attorney-in-Charge for Defendant GE
Healthcare, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on March 9, 2012, a copy of the foregoing document was served in
accordance with the Federal Rules of Civil Procedure to:

Andrew K. Meade
Burford Hawash Meade & Gaston LLP
1221 McKinney, Suite 3150
Houston, Texas 77010

/s/ Melanie B. Rother

Attorney for Defendant GE Healthcare, Inc.

EXHIBIT 1

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

ADVANCED DIAGNOSTICS
MANAGEMENT, L.L.P.,

Plaintiff,

V.

GENERAL ELECTRIC COMPANY,
INCORRECTLY NAMED AS GE
HEALTHCARE, INC.,

Defendant.

[illegible]

Civil Action No.

INDEX OF MATTERS BEING FILED

- | | |
|-------------------|--|
| Exhibit 1: | This index of matters being filed |
| Exhibit 2: | The executed process to General Electric |
| Exhibit 3: | Advanced Diagnostics' Original Petition and Request for Disclosures |
| Exhibit 4: | The state court docket sheet |
| Exhibit 5: | A list of counsel of record, including addresses, telephone numbers, and parties represented |

EXHIBIT 2

7006 0810 0002 3405 9352

RECEIPT NUMBER 431960 70.00
TRACKING NUMBER 72750083 CTM

CAUSE NUMBER 201207911

PLAINTIFF: ADVANCED DIAGNOSTICS MANAGEMENT L L P

In The 165th
Judicial District Court of
Harris County, Texasvs.
DEFENDANT: GE HEALTHCARE INC

CITATION CORPORATE

THE STATE OF TEXAS
County of HarrisTO: GE HEALTHCARE INC (CORPORATION) BY SERVING ITS REGISTERED AGENT FOR
PROCESS C T CORPORATION SYSTEM

350 N ST PAUL STREET SUITE 2900 DALLAS TX 75201

Attached is a copy of PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE

This instrument was filed on the 8th day of February, 2012, in the
above cited cause number and court. The instrument attached describes the claim against you.YOU HAVE BEEN SUED; you may employ an attorney. If you or your attorney do not file a written answer with the
District Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of 20 days after you were
served this citation and petition, a default judgment may be taken against you.

TO OFFICER SERVING:

This Citation was issued under my hand and seal of said Court, at Houston, Texas, this 9th day of
February, 2012.Issued at request of:
MEADE, ANDREW
1221 MCKINNEY SUITE 3150
HOUSTON, TX 77010
Tel: (713) 658-9001
Bar Number: 24032854Chris Daniel
CHRIS DANIEL, District Clerk
Harris County, Texas
201 Caroline, Houston, Texas 77002
P.O. Box 4651, Houston, Texas 77210

Generated by: CUERO, NELSON 7MM/7MM/9217632

OFFICER/AUTHORIZED PERSON RETURN

I received this citation on the _____ day of _____, 20____, at _____ o'clock ____ M., endorsed
the date of delivery thereon, and executed it at _____
(street address) (city)in _____ County, Texas on the _____ day of _____, 20____, at _____ o'clock ____ M.,
by delivering to _____, by delivering to his
(the defendant corporation named in citation)_____, in person, whose name is _____
(registered agent, president, or vice-president)a true copy of this citation, with a copy of the _____ Petition attached,
(description of petition, e.g., "Plaintiffs Original")and with accompanying copies of _____
(additional documents, if any, delivered with the petition)

I certify that the facts stated in this return are true by my signature below on the _____ day of _____, 20____.

FEE: \$ _____

By: _____
(signature of officer)

Printed Name: _____

Affiant Other Than Officer _____

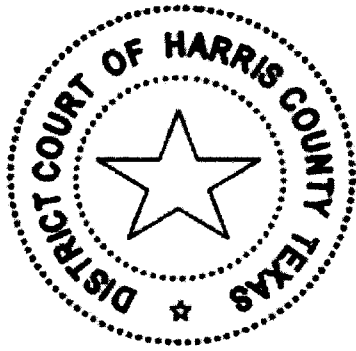
As Deputy for: _____
(printed name & title of sheriff or constable)On this day, _____, known to me to be the person whose signature
appears on the foregoing return, personally appeared. After being by me duly sworn, he/she stated that this citation was
executed by him/her in the exact manner recited on the return.

SWORN TO AND SUBSCRIBED BEFORE ME, on this _____ day of _____, 20____

Notary Public

N.INT.CIT.C.P





I, Chris Daniel, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this March 1, 2012

Certified Document Number: 51319025

Chris Daniel, DISTRICT CLERK
HARRIS COUNTY, TEXAS

SENDER: COMPLETE THIS SECTION

■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
 ■ Print your name and address on the reverse so that we can return the card to you.
 ■ Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

GE Healthcare Inc 09 2012
 By serving its registered agent
 C T Corporation System
 350 N St Paul Street, Suite 2900
 Dallas, Texas 75201

2012-07911 165th COURT

2. Article Number
 (Transfer from service label)

7006 0810 0002 3905 9352

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-00-150

COMPLETE THIS SECTION ON DELIVERY

A. Signature Alisa Munoz ☒ Agent ☐ Addressee

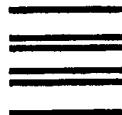
B. Receiver's Name Alisa Munoz ☒ Certified Delivery

D. Is delivery address different from item 1? ☐ Yes ☐ No
 If YES, enter delivery address below:

3. Service Type ☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes ☐ No

UNITED STATES POSTAL SERVICE



First-Class Mail
 Postage & Fees Paid
 USPS
 Permit No. G-10

FILED

Chris Daniel
 District Clerk

FEB 23 2012

Time: _____
 By: _____
 Harris County, Texas
 Deputy

FILED

Chris Daniel
 District Clerk

FEB 23 2012

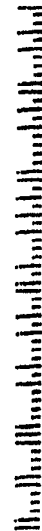
Time: _____
 By: _____
 Harris County, Texas
 Deputy

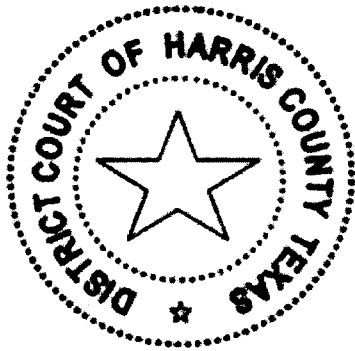
FILED

Chris Daniel
 District Clerk

FEB 23 2012

Time: _____
 By: _____
 Harris County, Texas
 Deputy





I, Chris Daniel, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this March 1, 2012

Certified Document Number: 51440243

Chris Daniel, DISTRICT CLERK
HARRIS COUNTY, TEXAS

EXHIBIT 3

2012-07911 / Court: 165

Filed 12 February 8 P1:29
Chris Daniel - District Clerk
Harris County
ED101J016717568
By: Nelson Cuero

CAUSE NO. _____

ADVANCED DIAGNOSTICS
MANAGEMENT, L.L.P.,

PLAINTIFF

V.

GE HEALTHCARE, INC.,

DEFENDANT

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

_____ JUDICIAL DISTRICT

Original Petition and Request for Disclosures

Plaintiff Advanced Diagnostics Management, L.L.P. files this Original Petition and Request for Disclosures against Defendant GE Healthcare, Inc. and would show the Court as follows:

I. Discovery

1. Plaintiff intends to conduct discovery under Level III of Texas Rule of Civil Procedure 190.4. Plaintiff requests that the Court enter a Docket Control Order.

II. Venue and Jurisdiction

2. The amount in controversy is within the jurisdictional limits of this Court and all parties conduct business and maintain a presence inside the State of Texas.

3. Venue is proper in Harris County, Texas pursuant to section 15.002 of the Texas Civil Practice & Remedies Code. All or a substantial portion of the acts and/or omissions that form the basis of this lawsuit occurred within Harris County, Texas.

III. Parties

4. Plaintiff Advanced Diagnostics Management, L.L.P. is a Texas limited liability partnership existing and doing business in the State of Texas.

5. Defendant GE Healthcare, Inc. is a corporation doing business in the State of Texas. It may be served with process by serving its registered agent for process, CT Corporation System, 350 N. St. Paul Street, Suite 2900, Dallas, Texas 75201.

IV. Background Facts

6. In January 2005, Plaintiff Advanced Diagnostics Management, L.L.P. ("Advanced Diagnostics") purchased a GE Logiq 7 Ultrasound Unit from Defendant GE Healthcare, Inc. ("GE"). GE installed the ultrasound unit at Advanced Diagnostic's premises at 8307 Knight Road, Houston, Texas 77054. Pursuant to the parties' agreement, GE was obligated to provide service to the ultrasound unit.

7. In March 2011, the ultrasound unit began experiencing problems. As such, Advanced Diagnostics contacted GE to repair the ultrasound unit. At first, GE delayed responding to Advanced Diagnostics. Subsequently, GE refused to provide service to the ultrasound machine.

8. From March 2011 through late 2011, Advanced Diagnostics continued making requests for GE to repair the ultrasound unit. GE refused to do so, alleging incorrectly that Advanced Diagnostics had failed to pay a 2001 (decade-old) invoice.

9. As a result of GE's failure to repair the ultrasound unit, Advanced Diagnostics was forced to purchase a new ultrasound machine. Likewise, GE's failure to repair the ultrasound machine caused Advanced Diagnostics to suffer a loss of profits from use of the ultrasound unit.

V. Causes of Action

10. Advanced Diagnostics incorporates all of the above allegations into each cause of action stated below.

A. Breach of Contract.

11. The parties entered into a valid and binding contract, as detailed above. Advanced Diagnostics fully performed its obligations pursuant to the parties' agreements; however, GE has breached the parties' contract.

12. GE's breaches caused substantial damages to Advanced Diagnostics. Further, Advanced Diagnostics has presented its demands to GE for payment, but GE has failed to pay Advanced Diagnostics' damages. As a result, Advanced Diagnostics have had to hire attorneys to represent it and has incurred substantial attorneys' fees, which it should recover from GE, in addition to Advanced Diagnostics' other damages.

B. Promissory Estoppel.

13. GE made a promise to Advanced Diagnostics that GE would perform any and all repairs to the ultrasound unit.

14. Advanced Diagnostics reasonably and substantially relied on GE's promise to Advanced Diagnostics' detriment.

15. Advanced Diagnostics reliance was foreseeable by GE.

16. Injustice can be avoided only by enforcing GE's promise.

17. As a result of Advanced Diagnostics' reliance on GE's promise, Advanced Diagnostics suffered damages.

C. Common Law Fraud.

18. GE made a representation to Advanced Diagnostics that GE would perform any and all repairs to the ultrasound unit.

19. GE's representation was material and false.

20. At the time GE made the representation, GE knew the representation was false, or made the representation recklessly, as a positive assertion, and without knowledge of its truth.

21. GE made the representation with the intent that Advanced Diagnostics act on it.

22. The representation caused Advanced Diagnostics to suffer injury.

VI. Damages

23. GE has been the proximate and/or producing cause of substantial damages to Advanced Diagnostics and GE should answer in damages, including:

- (i) Actual, special and consequential damages, including lost profits and the cost necessary to repair and replace the ultrasound unit;
- (ii) Recission and/or a recissionary measure of damage;
- (iii) Court costs/expenses;
- (iv) Attorneys' fees;
- (v) Pre- and post-judgment interest; and
- (vi) All other relief, at law and in equity, to which Advanced Diagnostics may show itself justly entitled.

VII. Conditions Precedent

24. All conditions precedent to the Advanced Diagnostics' claims have been performed and/or have occurred.

VIII. Jury Demand

25. Advanced Diagnostics requests a trial by jury and tenders the appropriate fee with the filing of this Original Petition.

IX. Request for Disclosures

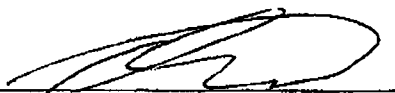
26. Pursuant to Texas Rule of Civil Procedure 194, Advanced Diagnostics requests that GE disclose, within 50 days of the service of this request, the information or material described in Rule 194.2.

X. Conclusion and Prayer

Advanced Diagnostics requests that upon final hearing and/or trial they recover against GE, for damages, costs, fees, and expenses, that any counterclaims or cross-claims by GE be dismissed, and that Advanced Diagnostics receive all such other and further relief to which they may be entitled at law and in equity.

Respectfully submitted,

BURFORD HAWASH MEADE & GASTON LLP



Andrew K. Meade
TBA No. 24032854
Robert P. Wynne
TBA No. 24060861
1221 McKinney, Suite 3150
Houston, Texas 77010
Telephone: (713) 658-9001
Telecopier: (713) 658-9011

ATTORNEYS FOR PLAINTIFFS

EXHIBIT 4

Harris County Docket Sheet

2012-07911

COURT: 165th

FILED DATE: 2/8/2012

CASE TYPE: BREACH OF CONTRACT



ADVANCED DIAGNOSTICS MANAGEMENT L L P

Attorney: MEADE, ANDREW

VS.

GE HEALTHCARE INC

Docket Sheet Entries

Date

Comment

EXHIBIT 5

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

ADVANCED DIAGNOSTICS
MANAGEMENT, L.L.P.,

Plaintiff,

v.

GENERAL ELECTRIC COMPANY,
INCORRECTLY NAMED AS GE
HEALTHCARE, INC.,

Defendant.

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Civil Action No.

LIST OF COUNSEL OF RECORD

Pursuant to Local Rule 81(6), the following is a list of the counsel of record in this cause,
including addresses, telephone numbers, and parties represented:

- Plaintiff Advanced Diagnostics Management, L.L.P. is represented by:

Andrew K. Meade
Robert P. Wynne
Burford Hawash Meade & Gaston LLP
1221 McKinney, Suite 3150
Houston, Texas 77010

- Defendant General Electric Company (incorrectly named as GE Healthcare, Inc.)
is represented by:

Melanie B. Rother
Seth M. Isgur
Fulbright & Jaworski L.L.P.
Fulbright Tower
1301 McKinney, Suite 5100
Houston, TX 77010-3095
Telephone: (713) 651-5151
Facsimile: (713) 651-5246